COMMUNITY LEGAL SERVICES
ACCESS TO JUSTICE FOR ALL

SB0432
Criminal Procedure – Expungement and Maryland Judiciary Case Search (Expungement Reform Act of 2025)
Judicial Proceedings Committee Hearing
February 5, 2025

Position: FAVORABLE

To the Honorable Members of the Judicial Proceedings Committee:

Community Legal Services (CLS) is a nonprofit legal services provider dedicated to ensuring equitable access to justice and due process of law for Maryland's most under-represented populations. We strive to provide high quality legal representation and counsel that supports and strengthens the economic, social, health, and housing stability of our clients. We strongly support passage of SB0432.

CLS attorneys and volunteers have conducted hundreds of expungements in the past 18 months as part of the State's efforts to expand the expungement of cannabis-related offenses that were no longer crimes. We have handled more than 700 expungement matters through more than a dozen clinics since 2023 when the law changed. We have 30 volunteers who are trained in expungement law and procedure, and many of them have participated in our events. We have seen many, many positive impacts for the clients we have helped. However, we have had to give disappointing advice for many people as a result of expungement law that this bill would remedy.

Addressing the Issue of "Unsatisfactory Completion of Probation

One of the most pernicious things we have seen is when an otherwise expungable misdemeanor is not considered eligible for expungement due to "unsatisfactory" completion of probation. Courts are required, per the current statute and Maryland case law, to find these charges non-expungable. (See *In re Abhishek I.,* 282 A.3d 318.) This results in two consequences: 1) offenses that are otherwise expungable are not eligible, and 2) any other offense preceding the one with unsatisfactory completion is also blocked from expungement. Ironically, offenders who have completed a probation revocation for an eligible offense would still be eligible to expunge despite the revocation if they meet the waiting period requirement.

CLS attorneys have observed many instances of years-old offenses being ineligible for expungement due to the "successful completion of the sentence" language in current law. There is no room for judicial discretion – the door is simply closed to the possibility of expungement. SB0432 would not result in mandatory eligibility for expungement under these same circumstances, but it would require the court to consider whether expungement should be permitted.

SB0432 would require a finding that the person's success at court-ordered probation be considered in whether the person is a risk to public safety. The State could still object to an expungement of an individual who did not successfully complete probation, but the person seeking expungement would be able to present his or her case to the court. In cases where probation was closed unsuccessfully due to nonpayment of restitution, the court would be able to consider if nonpayment were due to an inability to pay. In our practice, we find this to be a common reason why probation is closed unsatisfactorily, so this provision is likely to be extremely beneficial for allowing expungements. Inability to pay restitution is not a determinant of whether a person poses a threat to public safety, and poverty should not prevent individuals from having a better chance to find employment and housing and become productive after they have served their time. The provisions set forth in this bill continue to protect the State while balancing the right of the person seeking expungement to better his or her circumstances through expungement.

Expansion of Eligible Charges and the Potential Effect on the Unit Rule

In Maryland, multiple individual offenses can be and often are charged together as one "unit." Because of the "Unit Rule," if any one of the offenses charged together with other offenses in a single "unit" is ineligible for expungement, then all charges in the unit are ineligible. As it is now, we find the Unit Rule frequently to be a barrier to expungement of offenses that, were they not part of the unit, would clearly be eligible for expungement. While a full rescission of the Unit Rule would benefit the individuals seeking expungement and the public most, expanding the list of eligible misdemeanors may help lessen the Unit Rule's impact.

Automatic Expungement of STET Dispositions

Finally, automatically removing STET cases that are more than three years old from Maryland Judiciary Case Search will save judicial resources and be an immediate benefit to residents of Maryland. Removing STET matters from public view will make a review of a person's records much clearer and reduce potential negative connotations of having a "long" record. STET matters are usually offenses that would be eligible for expungement if convicted anyway, and they are low priority for prosecution. Removing them from public view provides the public with a more accurate picture of a person's risk to the community. JIS already can remove offenses by category like STET, so the impact will be felt quickly for the impacted community. This system-wide removal also saves judicial resources so that petitioners do not have to file for the already-free expungement of their records.

We Respectfully Request a Favorable Report

For these reasons noted above, Community Legal Services respectfully asks the committee to **issue a favorable report on SB0432**. Please feel free to reach out to Jessica Quincosa, Executive Director, or Lisa Sarro, Director of Litigation & Advocacy, with any questions at quincosa@clspgc.org, and sarro@clspgc.org, respectively.